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ABSTRACT

This paper is the fourth in a series of yearly efforts to identify the top 10 public-policy issues facing higher education. Each of the issues is discussed in terms of likely developments in 1997-98, the issue's various aspects, and sources of further information. Issues identified are: (1) the Higher Education Act Reauthorization (issues relating to the federal role in making college more affordable and accessible); (2) federal budget constraints (the commitment to balance the budget jeopardizes all programs including student aid and campus-based research); (3) various federal tax proposals affecting higher education; (4) innovative state financing (demographic trends and slower growth of state funding); (6) health-care system changes (reforms to the Medicare program will affect most colleges and universities); (7) fair use under copyright law (institutional fair-use policies face rigid guidelines that impinge on important educational needs); (8) job training (Congress is expected to look at every piece of legislation that affects job training and employment); (9) the quality of teaching and learning (concerns about teaching and learning will lead to review and modification of conditions of employment and training for teachers); and (10) the virtual university (many issues relating to the governance and financing of technology-based virtual universities must be resolved). (DM)

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Ten Public Policy Issues for Higher Education in 1997 and 1998

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Introduction

This paper is the fourth in a series of AGB publications highlighting the top public-policy issues affecting higher education. Our purpose in publishing this series continues to be to provide board members and higher education officials with a clear picture of how shifting public policies will affect their institutions.

This year we have made one significant change to the publication: We have moved from an annual publication to a biennial one that covers the public-policy issues we expect to be most prominent in 1997 *and* 1998. Our thinking in making this change is that many public-policy issues do not conveniently correspond to the start and finish of the calendar year, especially when the Congress and most state legislatures constitute themselves over two-year periods. It also is our judgment that the amount of overlap in issues from one year to the next justifies shifting to a two-year format. We hope you agree.

Higher education has moved out of the pack of domestic policy issues to the forefront of issues the 105th Congress will address. President Clinton has raised the federal stake in higher education by proposing a broad series of tuition tax breaks and an unprecedented expansion of the Pell Grants program. Even without stimulus from the president, however, higher education would have assumed a high profile in the 105th Congress as a result of the scheduled reauthorization of the Higher Education Act and various other legislation affecting colleges and universities. Higher education programs will be at the center of debates about how to achieve a balanced federal budget.

Higher education also will be a critical item on the agenda of most state governors and legislatures over the next several years. While the recovery of the economy will relieve some of the budgetary pressure most public colleges and universities have felt through the early 1990s, the ample concerns of these institutions will ensure that funding and productivity in higher education will remain hot topics. In addition, the wide variety of innovative approaches—such as prepaid tuition plans and performance-based funding—will keep higher education in the spotlight.

The courts, too, will continue to play a significant role in higher education matters. Affirmative action is only the most visible public-policy issue before the federal and state courts. The tax-exempt status of institutions and unionization questions are other examples of issues that will be affected by judicial proceedings.

It is worth noting that 1997 and 1998 mark the 50th anniversary of publication of arguably the most important public-policy documents for higher education in the 20th century: the six reports of the Truman Commission on Higher Education, which were issued over the course of the winter of 1947-48. These reports were remarkable in their prescience in anticipating the principal trends that would shape the future of American higher education. Also remarkable were the reports' recommendations that ultimately shaped these trends, including the creation of community colleges and the establishment of federal student-aid programs. One is left to wonder what would be the result if a similar commission were created in today's much more complex and contentious environment.

Suggestions and Acknowledgments

We hope this document continues to merit your interest and use. Please feel free to convert the summary of issues on page 5 for use with an overhead projector or computer-based presentation. AGB members have permission to photocopy the entire paper, or additional copies may be ordered for a nominal charge by calling AGB Publications at 202/296-8400 or contacting our Web page, www.agb.org.

Special acknowledgment is due AGB Director **Alan G. Hassenfeld**, trustee of Bryant College and the Hassenfeld Family Foundation, for inspiring this publication and supporting its initial development. And we express our gratitude to **TIAA-CREF** for its contribution to the research necessary to develop the paper.

AGB Senior Fellow **Arthur M. Hauptman** once again directed this project with his usual clarity and objectivity, and he wrote six of the paper's issue briefs. But two others had principal responsibility for the remaining four issues and are due our thanks. **David Morse**, associate vice president for policy planning at the University of Pennsylvania, was the principal author for three issue briefs: affirmative action, health care, and federal tax policies. And the brief on fair use under copyright law was written by **Kenneth D. Crews**, associate professor of law and of library and information science and director of the Institute for the Study of Intellectual Property and Education at Indiana University-Purdue University Indianapolis. **Richard Novak**, AGB director for public sector programs, once again contributed valuable insights and suggestions, and **Daniel J. Levin**, AGB vice president for publications, edited the volume and prepared it for publication. These colleagues join with me and the AGB Board of Directors in urging you to engage these issues as they affect your college or university—and to make your views known to those who will most influence how they proceed through the public-policy making process.

Richard T. Ingram
AGB President
March 1997

Ten Public Policy Issues For Higher Education in 1997 and 1998

1. Higher Education Act Reauthorization

The debate over the reauthorization of the Higher Education Act will focus on a number of important issues relating to the federal role in making college more affordable and accessible.

2. The Federal Budget Squeeze

The commitment to balance the federal budget will mean greater scrutiny of funding for student-aid and other federal higher education programs, including support of campus-based research.

3. Federal Tax Proposals

The 105th Congress will vigorously debate various tax proposals affecting higher education.

4. Innovative State Financing

Demographic trends and slower growth of state funding for higher education will lead some states to adopt a variety of innovative financing approaches.

5. Affirmative Action

Court cases and other challenges to affirmative-action programs will focus the attention of college and university officials, especially in the areas of admissions and employment.

6. Health-Care System Changes

Likely reforms in the Medicare program and further evolution of the health-care industry will affect most colleges and universities.

7. Fair Use Under Copyright Law

Institutions developing fair-use policies will face unspecific laws and unduly rigid guidelines in atttempting to meet practical and important educational needs that are central to their mission.

8. Job Training

Congress has a unique opportunity to rationalize the complex web of postsecondary education and training programs.

9. The Quality of Teaching and Learning

Concerns about the quality of teaching and learning will lead policy makers to review and modify conditions of employment and training for current and future teachers.

10. The Virtual University

Public-policy makers and higher education officials must resolve many issues relating to the governance and financing of technology-based virtual universities.

1. Higher Education Act Reauthorization

Issue at a Glance

The debate over the reauthorization of the Higher Education Act will focus on a number of important issues relating to the federal role in making college more affordable and accessible.

• Congress and the administration will discuss how to make Pell Grants more effective in providing access to postsecondary education for economically disadvantaged students.

• Continuing concerns about the high cost of college could lead Congress to seek ways to use federal student aid to limit future tuition increases.

• As part of reauthorization of the Higher Education Act, Congress will examine how the federal government assists institutions and regulates those participating in federal student-aid programs.

The Higher Education Act (HEA)—the federal law that contains the major student aid and other federal programs for higher education—has been reauthorized every four to six years since it was enacted in 1965. It is scheduled to be reauthorized in 1997. The process will be somewhat unusual this time around because Congress also will be considering various other legislation that affects higher education. These include efforts to balance the budget; a wide variety of tax-cut proposals, including many that would affect postsecondary education and training; legislation to streamline and reform federal employment and training programs; implementation of welfare-reform legislation enacted in 1996; and reauthorization of adult and vocational education legislation.

The confluence of all this legislation during the 105th Congress provides an opportunity to introduce greater coherence in the wide range of federal policies that affect higher education. Since the same committees deal with much of this legislation, the scheduling of the debate over HEA reauthorization will be complicated. A final vote on the measure may not occur until toward the end of the 105th Congress. If other legislation takes precedence, it also is possible that HEA reauthorization will be pushed back into the 106th Congress. In either case, the congressional committees responsible for HEA reauthorization will have to be cognizant of developments in other legislation.

• Congress and the administration will discuss how to make Pell Grants more effective in providing access to postsecondary education for economically disadvantaged students.

Pell Grants are now the largest federal student-aid program, currently providing $7 billion in awards to 5 million students. The last Congress raised the maximum Pell award from $2,460 to $2,700 as part of election-year politics. President Clinton has proposed another increase to $3,000, in part to blunt criticism that his tuition tax proposals would be too directed to the middle class.

Discussions over Pell Grant funding levels will take place in the context of how the program might be modified as part of the HEA reauthorization. Most in the higher education community believe the current Pell Grant program is well structured and that more money is all that is needed to make it even better. Others argue that Pell Grants are not as effective as they could be, and the program contains fundamental flaws that need to be addressed. For instance, some critics want to the program to create incentives for students to complete their degrees.

• Continuing concerns about the high cost of college could lead Congress to seek ways to use federal student aid to limit future tuition increases.

A continuing debate is whether increasing federal student aid contributes to the rapid growth in college tuition and other charges. Many in the higher education community argue this connection does not exist and point to the lack of correlation between the growth in federal grant aid and the explosion in college tuition in the 1980s. Nonetheless, Congress held hearings on the topic in 1996 and will do so again.

This debate has been reignited by the president's proposals to introduce tuition tax credits and deductions. Those who have argued that tax breaks will lead to tuition inflation should be prepared to answer this question: Why would this not also be the case for the student-aid programs?

Many in Congress believe the federal government should try to do something to help stem increases in college tuition. A strong argument will be made by those in the higher education community that the federal government has no legitimate role in controlling what colleges and universities charge. But in the absence of more reasonable alternatives, proposals are likely to emerge in the Congress that would place limits on federal aid to students attending institutions where tuition has increased rapidly.

• As part of reauthorization of the Higher Education Act, Congress will examine how the federal government assists institutions and regulates those participating in federal student-aid programs.

The debate over federal student-aid programs is likely to overshadow discussion concerning the other dozen titles in the Higher Education Act, which also are subject to review and revision as part of reauthorization. Yet these programs are critically important. They include the Title II library programs (in terms of the federal role in supporting the application of information technologies), Title IX federal support of graduate and professional education, the Title V programs of teacher support, and the Title III programs that support developing institutions.

The responsibilities of State Postsecondary Review Entities (SPREs) led to widespread contention during the last reauthorization of the HEA in 1992. SPREs were killed in 1995 after higher education associations and many of their member institutions objected to the notion that the state and federal governments would be allowed to intrude in academic processes. But the concerns still exist about the federal government's ability to monitor the institutions participating in the student-aid programs. Congress will need to debate what might take the place of SPREs. The discussion of quality assurance in federal student-aid programs also will lead to a discussion of how accreditation will fit into the structure in the future.

The debate over quality assurance also could include consideration of ways to relieve high-performing institutions of some regulatory burdens and reporting requirements they now face.

For more information on this issue:

Summer 1997 issue (forthcoming) of *Priorities*, by Jane Wellman and Clayton Spencer.

"Reauthorization of the Higher Education Act," by Terry W. Hartle in *Educational Record*, Fall 1996.

"Politics Versus Policy in the Tuition-Aid Debate," by Arthur M. Hauptman in *Trusteeship*, March/April 1997.

2. The Federal Budget Squeeze

Issue at a Glance

The commitment to balance the federal budget will mean greater scrutiny of funding for student-aid and other federal higher education programs, including support of campus-based research.

• Despite budget increases in 1996 and proposed increases by the president in 1997, increased funding for student aid and other higher education programs will be difficult as federal discretionary spending is subjected to overall spending limits.

• Student loans again will figure prominently in discussions of reforming federal entitlement programs.

• Federal support of on-campus research is likely to grow more slowly than in the past as a result of the increased commitment to a balanced budget.

Both the president and Congress are committed to prepare a budget plan in 1997 that would lead to a balanced budget by the year 2002. To achieve this objective, it will be necessary to make a number of major changes in entitlement programs and to reduce funding for a broad range of federal programs and activities. It is worth noting that many of the programs that will be targets of budget cutters this year already have been modified in efforts to reduce the deficit and move toward a balanced budget. Despite the high priority that many congressional lawmakers on both sides of the aisle appear to place on higher education, the various federal student-aid and other higher education programs are sure to be part of efforts to balance the budget.

• Despite budget increases in 1996 and proposed increases by the president in 1997, increased funding for student aid and other higher education programs will be difficult as federal discretionary spending is subjected to overall spending limits.

With the exception of student loans, all federal student-aid and other higher education programs are part of the discretionary side of the budget. These programs require annual appropriations to operate. Discretionary programs have been hardest hit by the budget-cutting efforts in recent years, and their share of the total budget has persistently declined. Higher education programs have taken their share of those reductions.

Education programs bucked this trend in 1996 as election-year politics led to large funding increases for several programs. The maximum level for Pell Grants, for example, increased from $2,420 to $2,700. In 1997, President Clinton has proposed to raise the maximum level to $3,000. This should help insulate Pell Grants from major budget-cutting efforts, although total adoption of the president's proposal is unlikely. However, other student-aid and higher education programs probably will be subject to additional cuts as part of budget-balancing efforts.

• Student loans again will figure prominently in discussions of reforming federal entitlement programs.

Student loans are funded differently from the other federal higher education programs. Rather than being funded through the annual appropriations process, student loans fall under the category of federal entitlement programs and thus are not subject to annual appropriations. Entitle-

ment programs provide statutory levels of awards to all eligible beneficiaries. In the student-loan programs, those "entitled" include lenders, loan servicers, guaranty agencies, and loan holders as well as the students themselves.

Federal student-loan programs—because they have grown rapidly and because many of the benefits go to students from middle-income families and third parties, such as banks and other profit-making entities—have been perpetual targets of budget cutters. Two approaches became noteworthy: The Clinton administration proposed direct lending in the 103rd Congress as a way of reducing costs by eliminating the "middlemen" in student loans, and Republicans in the 104th Congress proposed eliminating the federal payment of interest while borrowers were in school. The higher education community largely supported direct loans, but it formed a coalition that thwarted this latter proposal. The eventual cuts in subsidies were far more modest than what Republicans initially proposed.

Leaders in the 105th Congress are unlikely to renew the proposal to end the in-school interest subsidy—or perhaps to limit student eligibility for the subsidy—but budgetary pressures are likely to lead to a new round of student-loan proposals as part of a larger entitlement-reform effort. These will include renewal of the debate over direct lending, with Congress seeking restrictions on direct lending while the Clinton administration pushes for further expansion. The Clinton budget proposes that direct lending should account for one-half of all student loans in 1998. Congress also will debate further reductions in the federal payments to lenders, guaranty agencies, and secondary markets. The debate on reauthorization of the Higher Education Act also will address a number of key student-loan issues, including whether to increase the loan amounts that different groups of students can borrow.

• Federal support of on-campus research is likely to grow more slowly than in the past as a result of the increased commitment to a balanced budget.

Federal funding of campus-based research also is part of the discretionary side of the budget, but these programs have largely escaped cuts over the past decade. Although the growth in funding for campus-based research has slowed in the 1990s—compared with the 4 percent annual real increases it enjoyed in the 1980s—it nevertheless has grown faster than inflation in the 1990s. But with the retirement or defeat of several key legislative supporters of such research, and with the renewed commitment to present a balanced budget, federal support of campus-based research likely will be subject to budget stringency along with the rest of the discretionary programs. One possible outcome would be funding increases for selected categories of campus-based research involving certain medical fields and modest reductions or caps in other categories.

The tight federal budget also probably signals a significant decline in earmarked appropriations for individual institutions. The academic "pork barrel" was cut in half in 1996, and this trend can be expected to continue.

For more information on this issue:

"The Specter of Budget Uncertainty," by Terry W. Hartle in the *Chronicle of Higher Education*, June 28, 1996.

"Congress Slashes Earmarks for Academe by 50%, the Biggest Ever," by Colleen Cordes and Siobhan Germen in the *Chronicle of Higher Education*, September 13, 1996.

"Learning to Count in Higher Education," by John Lombardi in the *Washington Post*, January 8, 1997.

3. Federal Tax Proposals

Issue at a Glance

The 105th Congress will vigorously debate various tax proposals affecting higher education.

• The focus of higher education's concerns regarding federal tax policy will shift from charitable donations to tax deductions for college costs, as Congress debates President Clinton's tuition tax proposals.

• Fundamental reform—embodied in proposals for a "flat" or consumption-based tax—will not be a high priority for Congress but will loom in the background.

• The tax-exempt status of colleges and universities will remain an issue in states and municipalities, in Congress, and in the courts.

America's colleges and universities historically have been concerned about preserving their tax-exempt status and their donors' ability to deduct charitable contributions from income for tax purposes. Most of the other federal tax issues that interest higher education—employer-provided educational assistance, the treatment of research and teaching fellowships for graduate students, the deductibility of interest on student loans, the authority of private institutions to issue tax-exempt financing, and tax incentives to industry for investments in basic research at universities—derive from the core tax-exempt status of higher education embodied in section 501(c)(3) of the Internal Revenue Code. Lawmakers will debate each of these issues in 1997 and subsequent years.

• The focus of higher education's concerns regarding federal tax policy will shift from charitable donations to tax deductions for college costs, as Congress debates President Clinton's tuition tax proposals.

Proposals to help middle-income families pay for college—through tax credits, deductions, and savings incentives—will be top issues in the 105th Congress. Under the president's Hope Scholarship plan, modeled on a Georgia student-aid program, a student would be eligible for a refundable tax credit of up to $1,500 per year for each of the first two years of college—roughly the average cost of community college tuition. Alternatively, families could choose to deduct up to $10,000 per year for undergraduate and graduate-school tuition expenses. Congress also will consider establishing tax-favored accounts, similar to individual retirement accounts (IRAs), to promote family savings for college.

Although most of higher education has welcomed the Hope Scholarship and tuition-deduction proposals, which could cost more than $33 billion over the next six years, critics have raised several concerns. First, because the $1,500 tax credit would be offset by Pell Grant funds awarded on the basis of financial need, Hope Scholarships would not provide substantial new assistance for students from low-income families. Second, some higher education officials believe any infusion of new college aid should be accomplished by traditional grants, scholarships, and loans through the authorization and appropriations process, rather than through tax credits and deductions. Third, because receipt of the Hope Scholarship tax credit requires students to demonstrate they earned a B average, colleges are concerned not only about the potential of increased paperwork but also about the IRS regulating academic standards and grading practices.

These proposals will receive considerable attention by the tax-writing committees in 1997-98. House Ways and Means Chairman Bill Archer (R-Tex.) has given limited endorsement to tax deductions for tuition, and Senate Finance Chairman William Roth (R-Del.) has long advocated expansion of IRA-type accounts for college savings. In addition, Congress will focus on proposals to (1) permit the deduction of interest paid on student loans; (2) extend the tax-free provision of employer-provided educational benefits to employees; and (3) eliminate the $150 million tax-exempt indebtedness cap that prevents many private institutions from lowering their capital costs.

• Fundamental tax reform—embodied in proposals for a "flat" or consumption-based tax—will not be a high priority for Congress but will loom in the background.

During the primary and general election campaigns, several Republican candidates promised a fundamental restructuring of the federal tax code. Most of their proposals would have replaced the current graduated income tax either with a "flat," single-rate income tax that eliminates most deductions or with a consumption-based approach that favors savings and investment. Notwithstanding the general economic effects of such proposals or the desirability of fundamental tax reform, it is clear that most consumption or flat-tax plans would have a deleterious effect on charitable giving in general and on giving to higher education in particular. While the 105th Congress is unlikely to pass such reform, Ways and Means Chairman Archer and other key members have pledged to seek eventual repeal of the income tax.

• The tax-exempt status of colleges and universities will remain an issue in states and municipalities, in Congress, and in the courts.

In several states, municipalities seeking enhanced sources of tax revenue have challenged the tax-exempt status of higher education and other charitable institutions. Philadelphia and some surrounding jurisdictions have threatened to challenge colleges' tax exemption unless they provide payments in lieu of taxes or other "voluntary" arrangements. Meanwhile, the Pennsylvania Supreme Court is expected to determine whether Washington and Jefferson College meets the test of a "purely public charity" under state law. A ruling against the school would likely embolden other municipalities. The Pennsylvania legislature also will attempt this year to define precisely what constitutes a "purely public charity." In Maine, the state has challenged a church-based summer camp, claiming that because the camp predominantly serves participants from out of state, it does not deserve tax-exempt status. And in Colorado, voters rejected a referendum that would have denied tax-exempt status to colleges and other charitable institutions in that state.

While the strongest challenges to tax exemption have occurred at the state and local level, some in Congress have sought to limit the ability of colleges and universities and other nonprofit organizations to engage in policy advocacy. Such efforts to limit lobbying and other types of advocacy by federal grantees will be resurrected in 1997, principally in the form of a proposal to prohibit testimony by grantees before the House of Representatives unless witnesses disclose sources and amounts of federal support. In addition, several members of Congress have proposed distinguishing among types of charitable organizations by providing greater tax incentives for gifts to institutions that serve a high proportion of low-income beneficiaries.

For more information on this issue:

"The Old College Try," by Rochelle Stanfield in the *National Journal*, December 14, 1996.
"The Impact of Fundamental Tax Reform on Nonprofit Organizations," by Charles T. Clotfelter and Richard L. Schmalbeck in *The Economic Effects of Fundamental Tax Reform*, The Brookings Institution, 1996.
"A Taxing Situation," by A. Lee Fritschler and Brian C. Mitchell in *Trusteeship*, Sept./Oct. 1995.

4. Innovative State Financing

Issue at a Glance

Demographic trends and slower growth of state funding for higher education will lead more states to adopt a variety of innovative financing approaches.

• A number of states may decide to emulate a Georgia program that formed the basis for President Clinton's Hope Scholarship tax-credit proposal.

• More states may consider establishing prepaid tuition and savings plans as a way to alleviate parents' fears about the growing costs of college.

• More states may decide to allocate a portion of their funds to pub ic institutions on the basis of how they perform against certain criteria.

State funding of higher education became far more restricted in the early 1990s as a result of the national economic recession and the continuing decline in the proportion of state budgets devoted to higher education. In 1992, state dollars for higher education actually fell in current dollar terms—the first time that had happened since these data were first collected systematically in the 1950s. This shift from earlier patterns of substantial real growth in state funding led to budget cutbacks and staff reductions at many public institutions. In most states, tuition was increased to make up for the shortfall in appropriations. In many states, budgetary pressures have led to a series of innovative financing initiatives to help bridge the gap between resources and expectations.

Although these budgetary pressures have abated to some extent in the mid-1990s, and many states once again are increasing their funding for higher education, the trend toward innovation will continue because of the public's demand for accountability in higher education funding. In addition, because the numbers of high school graduates will grow, particularly in the South and the West, states will be forced to find more efficient ways to educate these students, even if resource levels continue to rise.

• A number of states may decide to emulate a Georgia program that formed the basis for President Clinton's Hope Scholarship tax-credit proposal.

Georgia's Hope Scholarship program guarantees that students with good grades can attend the state's public colleges and universities tuition free. Georgia has dedicated a portion of its lottery proceeds to fund the program. A number of states are looking at the plan as a way to stimulate greater college participation, and at least a half dozen states are seriously debating proposals similar to Georgia's.

The Clinton administration has modeled its Hope Scholarship tax-credit proposal on the Georgia program, in that a student must receive good grades to receive the benefit. In addition, other grant aid is subtracted from the amount of a student's award under both programs. But in several ways, the president's proposal differs from the Georgia program. Perhaps most important, the president's proposal is a tax incentive, while the Georgia plan is a state spending program. In addition, eligibility for the Georgia plan is based on a student's high school grades, while the president's proposal would be based on grades students earn in their first year of college.

The higher education community has a number of concerns with the president's tax proposal. Many would prefer this effort to come through student aid and the spending side of the budget rather than through tax breaks, and no one likes the prospect of having to report freshmen grades to the Internal Revenue Service. One way the federal government could address these concerns would be to provide matching funds to encourage states to develop programs similar to the Hope Scholarship, rather than administering such an effort through the tax code.

• More states may consider establishing prepaid tuition and savings plans as a way to alleviate parents' fears about the growing costs of college.

Roughly half of all the states now have some form of college savings plan in place. At least a dozen now sponsor college savings plans that typically use tax-exempt bonds as a vehicle for stimulating greater college savings. Another dozen or so have established prepaid tuition plans in which parents can set aside funds when their children are young and be assured these funds will cover the cost of tuition (and sometimes other costs) at public institutions in the state when their children reach college age. After a period of dormancy, the prepaid plans seem to be surging in popularity, in part because courts have granted favorable tax treatment to these plans.

A number of other states will consider whether to adopt a savings or prepaid plan in the next several years. They may want to consider the following issues:

• To what extent do the savings or prepaid plans favor middle-income and upper income families who have the money to invest and receive the greatest tax benefits? Both the savings and the prepaid plans tend to be most utilized by wealthier families.

• To what extent will lower income students pay for these benefits in the form of higher tuition? The prepaid plans are particularly susceptible on this point because the benefits parents receive do not necessarily match the contributions they make. The savings plans typically do not run this risk because each family is on its "own bottom" in terms of its investment.

• More states may decide to allocate a portion of their funds to public institutions on the basis of how they perform against certain criteria.

State funding of public institutions has evolved over time. For most of the nation's history, state allocations were largely a political negotiation. In the 1950s, a number of states began to depoliticize this process by moving toward enrollment-driven formulas. In the 1960s, costs per student were added to the mix of criteria used for funding allocations.

In the past decade, a few states have adopted performance-funding programs that create rewards and incentives for public institutions. These programs move beyond such factors as the number of students and the costs per student to such measures as how many students graduate within a prescribed amount of time and whether graduates have attained basic competency levels. A major cause of this shift are pressures for greater accountability. Efforts in more states to introduce performance-based funding will hinge on whether the public and policy makers believe higher education institutions are responding to concerns about productivity and efficiency. Efforts in South Carolina, where 100 percent of institutional funding will be based on performance criteria by 1999, will attract much attention.

For more information on this issue:

"Of Carrots and Sticks and State Budgets," by Brenda Norman Albright in *Trusteeship*, March/April 1997.

5. Affirmative Action

Issue at a Glance

Court cases and other challenges to affirmative-action programs will focus the attention of college and university officials, especially in the areas of admissions and employment.

• Colleges and universities will continue to assess the educational value and political and legal viability of affirmative-action programs in the aftermath of several judicial decisions.

• Affirmative-action programs in California's public colleges will be under particular scrutiny while the courts determine the constitutionality of Proposition 209, the initiative voters passed to limit racial preferences.

• Colleges and universities throughout the nation will be under increased pressure to reconsider how they promote access to members of traditionally underrepresented minorities.

The American public continues to pay considerable attention to the educational and legal validity of efforts on the part of colleges and universities to enhance the participation rates of students, faculty, and employees from traditionally underrepresented minority groups. Recent challenges to affirmative-action programs leave standing but increasingly vulnerable the basic rationale for affirmative action in higher education, the 1978 *Bakke* Supreme Court decision.

• Colleges and universities will continue to assess the educational value and political and legal viability of affirmative-action programs in the aftermath of several judicial decisions.

The 1978 Supreme Court decision in the case of the *Regents of the University of California v. Bakke* established that colleges and universities may use race as a factor in admissions decisions to foster educational benefits that derive from a diverse student body. Both public and private colleges and universities have utilized the reasoning in *Bakke* as a foundation of their affirmative-action programs. Several recent federal court decisions, some of which directly affect college admissions policies, have eroded that foundation. Two Supreme Court decisions challenging preferences for minority contracting, *Richmond v. J.A. Croson Co.* (1989) and *Adarand v. Peña* (1995), strengthened the legal concept of "strict scrutiny" under the Fourteenth Amendment, emphasizing that government actions to establish such race-conscious measures must be "narrowly tailored" to meet a "compelling government interest," such as the remediation of the present effects of past discrimination. In a similar case, *Wygant v. Jackson Board of Education* (1986), Justice Sandra Day O'Connor appeared to uphold college affirmative-action initiatives, noting that the state interest in the promotion of racial diversity has been found sufficiently "compelling," at least in the context of higher education, to support the use of racial considerations.

Two lower court decisions, both of which have been left standing by the Supreme Court, seem to conflict with Justice O'Connor's position. In 1994, in *Podberesky v. Kirwan*, the Fourth Circuit Court struck down a University of Maryland scholarship program for minority undergraduates, stating that such a preferential program may not be used to remedy the continuing effects of past discrimination. Last year, in *Hopwood v. Texas*, the Fifth Circuit ruled that an admissions process at the University of Texas Law School that established a different "presumptive index" for black, Mexican-American, and other applicants represented an impermissible racial classification. Two of the judges in *Hopwood* rejected Justice Lewis F. Powell's opinion in *Bakke* that race may be used as a

factor in admissions decisions; the third judge, supporting the challenge to the Texas admissions program, was not so quick to reject *Bakke* and noted that race-based classifications may, in some instances, reflect a compelling state interest.

Some state universities and private institutions in the states covered by the Fifth Circuit (Texas, Louisiana, and Mississippi) have begun to dismantle admissions programs that distinguish among racial groups, but others, under court order to remedy the effects of past discrimination, have stated they will continue to consider race as a factor. Although *Bakke* remains law in other jurisdictions, the unsettled picture for affirmative action in the wake of *Hopwood* has caused states and institutions beyond the Fifth Circuit to reevaluate their admissions policies and programs.

• Affirmative-action programs in California's public colleges will be under particular scrutiny while the courts determine the constitutionality of Proposition 209, the initiative voters passed to limit racial preferences.

In November 1996, California voters endorsed the California Civil Rights Initiative, which bars that state from using preferences based on race, gender, or ethnicity in public employment, education, or contracting. That rejection of affirmative action by California's voters followed the 1995 ban by the University of California Regents of any race-specific criteria in the university's admissions, hiring, and contracting processes beginning in the 1998-99 academic year. The University of California plans to modify its admissions policies accordingly to admit some students on the basis of "special circumstances"—including economic and social disadvantage—as well as academic achievement. It also will make special outreach efforts to increase the pool of minority candidates. Still, initial projections by several University of California campuses indicated that even "special circumstances" pooling would substantially decrease participation among blacks and Hispanics.

Pending a determination of the constitutionality of the California voters' ban on affirmative action, the California State University and Community College systems indicate they will continue to consider race and ethnicity in making admissions decisions, and the University of California will continue its transition to a "special circumstances" program beginning in 1998.

• Colleges and universities throughout the nation will be under increased pressure to reconsider how they promote access to members of traditionally underrepresented racial groups.

Reverberations from various legal cases, Proposition 209, and University of California regents' action have created a climate of close scrutiny and uncertainty for affirmative action in other states, even as the heads of leading institutions reaffirm the educational value of campus diversity. The Georgia attorney general has suggested *Hopwood* should serve as a precedent in that state, and a suit against the university system will attract much attention. Arizona, Florida, Texas, and Colorado have eliminated race-based scholarship programs. The attorneys who argued *Hopwood* are representing a white plaintiff in a similar lawsuit against the University of Washington law school. Ward Connerly, who led the California regents' actions and the campaign for Proposition 209, has announced a national anti-affirmative action effort, and members of Congress intend to resurrect legislation to ban affirmative action in federally sponsored programs. These efforts place substantial new responsibilities on college and university officials to justify and defend affirmative action and clarify the "compelling" state interest in the educational value of diversity.

For more information on this issue:

Affirmative Action: Few Easy Answers, by Martin Michaelson, *Priorities* (Number 7, Summer 1996).
"The Hopwood Effect Kicks in on Campus" by Lincoln Caplan in *U.S. News & World Report,* December 23, 1996.
"Report to the Harvard University Board of Overseers," by Neil Rudenstine, 1996.

6. Health-Care System Changes

Issue at a Glance

Likely reforms in the Medicare program and further evolution of the health-care industry will affect most colleges and universities.

• As purchasers and providers of health care and as educators of health professionals, colleges and universities will continue to feel the effects of dramatic changes in the health-care marketplace.

• Academic health centers and university-affiliated hospitals will be affected directly and disproportionately by any reductions in Medicare reimbursements.

Any effort to balance the federal budget by 2002 must address the issue of entitlement spending. Assuming that Social Security—the largest federal entitlement program—is likely to be untouchable, Medicare thus becomes the most likely candidate for reducing the cost of entitlements. Both the Clinton administration and congressional leaders have stated that the bulk of spending reductions on the path to a balanced budget should come from Medicare, which provides substantial reimbursements to university-affiliated hospitals for their additional costs of treating severely ill patients and for providing training to physicians and other health-care professionals.

The administration has signaled that most Medicare cuts are to come in the form of reduced payments to health-care providers, and these reductions are likely to disproportionately affect the financing and operation of teaching hospitals. Coupled with the major overhaul of welfare in 1996, any changes in funding of teaching hospitals and other health-care providers will affect the provision of medical care to uninsured patients. Health-insurance reforms adopted by Congress and the managed-care revolution also affect colleges and universities.

• As purchasers and providers of health care and as educators of health professionals, colleges and universities will continue to feel the effects of dramatic changes in the health-care marketplace.

Although President Clinton's proposal for comprehensive reform of federal health-care policy failed, market-driven changes in the economics and delivery of health care have affected colleges and universities in their educational, research, and training mission as well as in their provision of care and their role as employers.

Increases in health-insurance premiums have leveled off for colleges and universities and other types of employers largely as a result of increased competition and consolidation among providers and a push toward managed care. While helping colleges control health-care costs, however, the movement toward managed care has placed additional pressure on the training function of academic health centers, which traditionally have stressed the production of skilled professionals in highly technical specialties and the training of academic researchers and practitioners. Insurers are increasingly reluctant to compensate academic medical centers for this training responsibility.

• Academic health centers and university-affiliated hospitals will be affected directly and disproportionately by any reductions in Medicare reimbursements.

Medicare supplements basic payments to teaching hospitals to compensate them for their greater costs and the intensity of services they provide to patients. The Clinton administration has indicated that pending reductions in Medicare spending, nominally agreed to by Congress, should come predominantly from cuts in reimbursements to hospitals, rather than from increases in premiums or copayments paid by beneficiaries or from reductions in medical services. Congress has yet to decide where Medicare cuts should be directed. The apparent need for reductions in federal Medicare expenses has been amplified by the recent report of the program's trustees that the Medicare Hospital Trust Fund will likely be bankrupt by 2001 without increased revenues or reduced reimbursements for services.

The outcome of the debate over the direction of Medicare cuts will materially and disproportionately affect academic health centers that rely on Medicare reimbursements to provide medical services and to help educate physicians, nurses, dentists, and other health professionals. Most insurers and other health-care payers under managed-care arrangements emphasize basic, primary-care services rather than support intensive and highly specialized care typically provided in academic settings. In addition, these payers are less likely to support the education and training of future generations of health professionals and researchers. Consequently, the federal government, through Medicare, by default has become the principal payer for such care and training. Several key members of Congress, appreciating the risks of cuts in Medicare reimbursements to academic health centers, have proposed plans to offset such reductions by establishing a medical-education trust fund. A combination of general revenues, Medicare fund transfers from managed-care providers, or surcharges on health-insurance premiums would establish this fund.

These probable stresses in the future funding and operation of academic health centers come on the heels of last year's welfare-reform legislation that ended federal welfare standards and permitted states to adopt more restrictive welfare-eligibility criteria. Changes in welfare-eligibility criteria will affect distribution of funds under Medicaid, the health-insurance program for low-income Americans, which has been a shared responsibility of the federal and state governments. For example, restrictions on Medicaid benefits to legal immigrants and others is likely to increase the number of uninsured patients who come to teaching hospitals, which now provide 45 percent of uncompensated medical care in the U.S.

For more information on this issue:

Legislative and Regulatory Update, Association of American Medical Colleges, October 1996.

"Harry and Louise Were Right," by Robin Toner in the *New York Times,* November 24, 1996.

7. Fair Use Under Copyright Law

Issue at a Glance

Institutions developing fair-use policies will face unspecific laws and unduly rigid guidelines in attempting to meet practical and important educational needs that are central to their mission.

• Promulgation of guidelines by the Conference on Fair Use will capture the attention of colleges and universities and raise questions about appropriate fair-use standards.

• Recent court rulings confirm that the meaning of fair use—even for the familiar activities of photocopying for classroom distribution—continues to perplex judges and academic institutions alike.

• Colleges and universities will attempt to establish reasonable and workable policies for use of information technologies, such as the Internet and distance learning systems.

The Copyright Revision Act of 1976 left the concept of fair use of copyrighted materials with a distinctly vague and uncertain scope. The ensuing two decades have seen an expansion of existing technologies and rapid growth of computer technologies and the Internet. These new technologies give rise to extraordinarily complex questions about the meaning of copyright and the appropriate scope of fair use for the reproduction and transmission of protected works for our classrooms and beyond. Compounding the uncertainty has been the near void of court rulings on fair use as applied to education.

• Promulgation of guidelines by the Conference on Fair Use will capture the attention of colleges and universities and raise questions about appropriate fair-use standards.

The Information Infrastructure Task Force, established by the Clinton administration, convened the Conference on Fair Use (known as "Confu") to bring together diverse stakeholders in the debate over the meaning of fair use for education and libraries. Confu issued an interim report in December 1996 that includes proposed fair-use guidelines on certain issues, but significant concerns among some participants prevented the group from offering even proposed guidelines on other problematic issues. Many organizations representing educational institutions and academic libraries are likely to formally oppose some or all of the guidelines. Some groups have concluded they cannot support any guidelines while the law and the technology are in a state of transition. Others have resolved that the guidelines are not an appropriate reflection of fair-use law or are too rigorous for a realistic application in academia.

Confu will issue a final report shortly after May 1997. While no guideline has the force of law, proponents of Confu guidelines hope to give them an "official" status. The resulting guidelines may adversely affect institutions and their libraries, if college officials do not become proactive.

• Recent court rulings confirm that the meaning of fair use—even for the familiar activities of photocopying for classroom distribution—continues to perplex judges and academic institutions alike.

A November 1996 decision by the Sixth Circuit Court of Appeals concluded that photocopying works for use in "coursepacks" was beyond fair use. The decision attracted considerable interest

among academics and great relief among publishers that look to college and university markets for sales of books. The private photocopy shop, now held liable for copyright infringement under that decision, is appealing to the Supreme Court. The complexity of the decision and diverging rulings among appeals panels demonstrate that the law of fair use even for photocopying is yet not fully resolved. When Congress last revised copyright law in 1976, it recognized the uncertainty of fair use, and a House committee's report included negotiated guidelines for fair use in the context of photocopied handouts for teaching purposes. Recent court decisions confirm that those guidelines do not have the force of law and do not define the upper limits of fair use for educational purposes.

These recent developments indicate that colleges and universities ought to take a fresh look at their own fair-use standards for even the most familiar activities. These developments also remind us that the law is in a state of transition, although a possible decision from the Supreme Court in this case next year may shed more light on this issue. Higher education institutions and professional associations will have an opportunity to prepare amicus briefs that may help the court fully understand the importance of fair use for educators.

• Colleges and universities will attempt to establish reasonable and workable policies for use of information technologies, such as the Internet and distance learning systems.

Court decisions on fair use in higher education for new technologies, such as the Internet and distance learning, are not expected in the near future. Most court decisions on fair use of interest to educators concern private companies (such as commercial photocopy shops) that do not enjoy the full scope of fair-use benefits. Few parties are prepared to resolve definitively the law of new technologies at this time.

The lack of formal or legal guidance provides an opportunity for academic institutions to take the initiative and establish their own workable and legally sound standards. Institutions developing a meaningful fair-use policy must strike a balance between fulfilling their obligations under the law while simultaneously exercising the broadest scope of fair use available to meet the practical and important educational needs central to their institution's mission.

Striking a balance between legal obligations and institutional mission can help define user policies of all types for the growth of technology in service to educational goals. For example, the Communications Decency Act is the subject of pending review by the Supreme Court in 1997. Regardless of the court's ruling on the constitutionality of that law, colleges and universities will face the need to balance open access to the Internet against the need to limit valuable university resources for educational purposes and to discourage transmission of inappropriate materials. In the quest to meet obligations under the law, institutions must not sacrifice opportunities that new technologies permit, and they must minimize the permitted adverse consequences of the law on fulfillment of the educational mission.

For more information on this issue:

Crews, Kenneth D. *Copyright, Fair Use, and the Challenge for Universities: Promoting the Progress of Higher Education.* Chicago: The University of Chicago Press, 1993.

Princeton University Press v. Michigan Document Services, Inc., 99 F.3d 1381 (6th Cir. 1996).

The Conference on Fair Use: An Interim Report to the Commissioner, December 1996. Available at http://www.uspto.gov/web/offices/dcom/olia/confu/.

Fair Use of Copyrighted Works: A Crucial Element in Educating America, a joint project of California State University, State University of New York, and City University of New York. Available at http://www.cetus.org/fairindex.html.

8. Job Training

Issue at a Glance

Congress has a unique opportunity to rationalize the complex web of postsecondary education and training programs.

• Renewal of legislation to reform federal employment and training programs could affect a broad range of institutions and students.

• Implementation of the landmark welfare-reform legislation passed in 1996 could have a substantial impact on institutions that enroll welfare recipients or their children.

Most observers agree that the American system of higher education is the best in the world. Few, however, would make the same assertion regarding how job training is provided in this country. Yet how we provide job training has a crucial effect on our ability as a nation to remain competitive in the global marketplace. In contrast to many other industrialized nations that treat specific job-skills training as an integral element of their human-capital development policy, the United States has no such comprehensive policy. Instead, a wide variety of organizations—community colleges, trade schools, community-based organizations and employers themselves—provide education and training in a wide variety of settings.

The maze and overlap of dozens of federal employment and training programs have compromised the effectiveness of federal efforts. Federal student grants and loans have become the biggest source of public support for training, but the aid issues that most affect training often take a back seat to those that affect traditional degree programs. The confusion in how responsibilities for job training are divided among the various levels of government and the private sector further add to the ineffectiveness of the current structure.

• Renewal of legislation to reform federal employment and training programs could affect a broad range of institutions and students.

The 105th Congress has a unique opportunity to improve the system of postsecondary education and training in this country because every piece of major legislation that affects these activities will be subject to review during the next two years. Most prominent are the reauthorization of the Higher Education Act and the tax proposals concerning tuition. But Congress also will review potential reforms of employment and training programs as well as vocational and adult-education legislation. In addition, implementation of the welfare-reform legislation enacted in 1996 will have a substantial impact on training opportunities.

An early initiative in President Clinton's first term was reform of the federal role in providing job training. Among the administration's proposals were imposing a payroll tax on employers that provided insufficient training to their employees and developing an extensive apprenticeship program similar to Germany's. Critics succeeded in defeating these proposals in the 103rd Congress.

When the Republicans took charge of the 104th Congress, the focus of reform shifted to attempts to consolidate the maze of existing federal employment and training programs. Both the House and the Senate passed bills along these lines. Representative William F. Goodling (R-Pa.) guided his Consolidated and Reformed Education, Employment, and Retraining Systems (CAREERS) bill through House passage, and then-Senator Nancy Kassebaum (R-Kan.) pushed the Job Training Consolidation Act through the Senate. But the bills failed in conference committee, in part because lawmakers could not agree on where in the federal government to place responsibility for these programs and how to divide the responsibility between the federal and state governments. Reform efforts are likely to be renewed in the 105th Congress.

If these reforms do occur and if tuition tax breaks are enacted in some form, there could be major changes in how job training is financed and administered. The states and localities could play a larger role in administering job-training programs; tax breaks for students and employers might replace student-aid programs as the major source of financing; and there might be greater clarity in the responsibilities of the federal departments of Labor and Education. Colleges and universities, particularly community colleges, that provide job training as part of their curriculum would be greatly affected by these and other changes.

• Implementation of the landmark welfare-reform legislation passed in 1996 could have a substantial impact on institutions that enroll welfare recipients or their children.

The landmark welfare-reform legislation Congress passed and President Clinton signed in 1996 could have far-reaching implications for colleges and universities as well as other organizations that provide postsecondary education and training. In addition to shifting welfare from "entitlement" status and requiring that welfare recipients be employed if they want to continue to receive benefits, the legislation envisions a much broader use of education and job training as means of moving people off welfare. Welfare recipients comprise less than 5 percent of all postsecondary enrollments. The welfare-reform legislation could lead many more welfare recipients to enroll in postsecondary institutions with the expectation that they will emerge with marketable skills. How to make this expectation a reality will be a challenge, especially because funding levels for these efforts are likely to be limited.

To the extent that most welfare recipients lack competency in basic skills, the welfare debate also raises questions about how to provide student-aid funds to the growing number of students who require remediation when they enter college. The current structure allows remediation to be paid for through grants and loans to students as well as through general support to institutions from states and localities. This structure has several problems. First, the amount of funds institutions receive for remedial programs typically is inadequate to meet the costs. Second, at least one-third of welfare recipients and other postsecondary students lacking basic skills now borrow to finance their education (many others receive grants). It is possible that the debate over welfare reform and the upcoming reauthorization of the Higher Education Act and the adult-education legislation will lead to a reconsideration of how remedial programs are financed in this country.

For more information on this issue:

"The Roles of Postsecondary Education in Workforce Development: Challenges for State Policy," by Robert Wallhaus. SHEEO, March 1996.

"Postsecondary Education and the New Workforce," by Esther Rodriguez and Sandra Ruppert. SHEEO, October 1996.

"For Students on Welfare, Degrees Pay Dividends," by W. Ann Reynolds in the *Chronicle of Higher Education*, March 21, 1997.

9. The Quality of Teaching and Learning

Issue at a Glance

Concerns about the quality of teaching and learning will lead policy makers to review and modify conditions of employment and training for current and future teachers.

• A number of states will review faculty compensation, promotion, and tenure policies in an effort to stretch state resources.

• Unionization of future faculty members—graduate students—will become a divisive issue on a growing number of campuses.

• Colleges and universities will be expected to do more to improve the quality of teachers in elementary and secondary education.

One of the most persistent criticisms of American higher education is that it does not seem to value undergraduate teaching and learning highly enough. This criticism stems from the public's belief that faculty at research universities are more interested in conducting research than in teaching undergraduates and that graduate students seem to do much of the teaching. At some institutions, especially in the public sector, the sense is growing that courses are crowded and often unavailable, making graduation in four years a near impossibility. These concerns, whether justified or not, feed the public's belief that the growth in college tuition has not been matched by increases in the quality of teaching and learning. Concerns about the quality of teaching extend to K-12 education as well: The public is questioning not only how well colleges and universities prepare future teachers but also whether current teachers are qualified.

• A number of states will review faculty compensation, promotion, and tenure policies in an effort to stretch state resources.

Although a growing economy has eased financial pressures in many states in recent years, efforts will continue to achieve greater financial efficiencies in educating students. One obvious target is faculty compensation and work load. Although compensation and promotion policies vary widely among institutions, the perception persists among many policy makers that faculty are underworked and overpaid. State legislators and governors who endorse this perception will continue to seek greater productivity from faculty in the form of increased teaching loads and possible caps on salary increases. Institutions will continue to hire more part-time and non-tenure-track faculty as a means of saving costs and reducing their dependence on tenured faculty. These trends have exacerbated already tense relations between faculty and administrators on many campuses.

Efforts to reform tenure, however, are likely to continue to be the principal focus of policy makers who want to achieve greater accountability and efficiency in higher education, as well as improving the teaching and learning function. As Peter Magrath, president of the National Association of State Universities and Land-Grant Colleges has written "tenure, as it currently operates, has become more of a problem than a help to our endeavors.... [It] must be carefully scrutinized now by the academy, so that narrow political interests do not impose on us destructive changes." Given this environment, public and private-sector institutions are likely to establish such supplements and alternatives to tenure as post-tenure review and long term contracts. The challenge will

be to ensure academic freedom while not providing a lifetime employment commitment without review. As examples, the University of Minnesota scrutinized its tenure policies; Yale has begun to reduce the number of professors who earn tenure; and the universities of Texas and Florida have systematically begun to institute post-tenure review.

• Unionization of future faculty members—graduate students—will become a divisive issue on a growing number of campuses.

At many research-oriented institutions, graduate students have come to play an increasingly visible role in teaching and advising undergraduates. The formal recognition institutions give to the role of these graduate students, however, does not match the reality of what these students contribute to the teaching, learning, and advising function. Nor does it match the changing needs of the academic marketplace. Reconciling this situation has become troublesome for many institutions. For example, graduate students at three University of California campuses have organized protests over working conditions, and graduate student groups at Yale and other institutions have sought to organize themselves as a union. The purpose of these efforts is to improve working conditions, including teaching load, pay, and other benefits.

Lawyers for the National Labor Relations Board may have added fuel to this fire by announcing plans to file a complaint against Yale University for allegedly retaliating against graduate students who held a strike. This may indicate a reversal of the NLRB's past position of treating teaching assistants as students and moving toward defining them as employees. Such a shift most probably would precipitate a marked increase in the number of institutions where graduate students petition for union status.

• Colleges and universities will be expected to do more to improve the quality of teachers in elementary and secondary education.

Concerns about the preparation of teachers for K-12 education have been persistent for more than a decade and have led to various public and private initiatives to improve teacher-education programs and to calls for higher standards for teacher performance. Dissatisfaction with the quality of teaching in elementary and secondary schools is at the heart of many school-reform efforts and forms the basis for many reports that have documented the erosion in the quality of education in America. As a result of these concerns, many institutions have reviewed their teacher-training programs. The Clinton administration's sponsorship of a forum on higher education's role in improving teaching and the report of the National Commission on Teaching and America's Future are likely to raise the profile of the teacher training and education issue and lead to new pressures on colleges and universities to do a better job of preparing the nation's teachers. This issue also will receive considerable attention during reauthorization of the Higher Education Act.

For more information on this issue:

"Faculty and Graduate Student Strife Over Job Issues Flares on Many Campuses," by Courtney Leatherman and Denise Magner in the *Chronicle of Higher Education*, November 29, 1996.

"At Yale, Few Professors Earn Tenure—and a New Review is Unlikely to Change That," by Robin Wilson in the *Chronicle of Higher Education*, December 20, 1996.

Three articles on tenure in *Trusteeship*, May/June 1997 and seven in "New Thinking on Academic Tenure," a *Trusteeship* Portfolio.

"What Matters Most: Teaching for America's Future," the report of the National Commission on Teaching and America's Future. September 1996.

10. The Virtual University

Issue at a Glance

Public-policy makers and higher education officials must resolve many issues relating to the governance and financing of technology-based virtual universities.

• Providing instruction through the greater use of technology and distance learning will require a rethinking of traditional tuition and financial aid policies.

• More rapid adoption of distance learning may require a rethinking of accreditation and how federal and state governments assure the quality of institutions that receive taxpayer support.

• Western Governors University and other distance-learning efforts will heighten competition between traditional institutions and nontraditional providers, including the private sector.

Eleven Western governors in 1996 announced the formation of the Western Governors University (WGU)—originally dubbed the "virtual university" because of its heavy reliance on new technologies and the fact that there will be no physical campus in the traditional sense. A board of trustees for WGU has been established, and a number of policy and implementation issues must be resolved before WGU "opens its doors." WGU will rely on traditional institutions to supply much of its coursework, although it will screen nontraditional providers who seek to provide course offerings and training.

Other states, regions, and consortia may attempt to develop their own virtual universities to avoid large capital costs, reduce operating expenses, and maximize new technologies. The creation of virtual universities raises difficult questions concerning their ability to operate within rules developed for the more traditional providers of higher education.

• Providing instruction through the greater use of technology and distance learning will require a rethinking of traditional tuition and financial aid policies.

Existing tuition policies at most institutions assume that students will attend classes for a certain number of hours to receive course credit. Financial-aid eligibility policies now are based on the payment of tuition and the other costs associated with attending courses; traditional tuition and financial-aid policies may turn out to be inappropriate mechanisms for this new type of higher education institution. For example, officials will need to resolve what to charge for tuition and how to allocate these charges among the various institutions that participate in the operation of the virtual university.

In terms of financial aid, one question is how to take into account the "living expenses" of students attending a virtual university. In addition, states subsidies to public institutions enrolling in-state students may now dissolve for students enrolling in institutions such as WGU. Although institutions providing instruction will recapture most tuition dollars paid by students, the loss of the state subsidy may have profound implications on institutional finances.

• More rapid adoption of distance learning may require a rethinking of accreditation and

how federal and state governments assure the quality of institutions that receive taxpayer support.

The traditional accreditation process is built on the notion of periodic site visits to review institutional practices and meet with faculty and administrators. Because a virtual university lacks a traditional campus or on-site faculty, the notion of a visiting committee and a site visit seems particularly inappropriate. Most existing distance-learning opportunities are part of traditional institutions whose accreditation applies to the distance-learning program as well. Because WGU and other virtual institutions are likely to be affiliated with various traditional providers that supply the coursework, the process of accreditation becomes far more complicated.

To the extent that WGU and other virtual universities will rely on competency-based curricula, the traditional accreditation process also may be ill-suited to evaluate their effectiveness. WGU will not fit the mold of most accredited institutions in terms of measuring how students progress toward completion of a degree. Also, it will be difficult if not impossible to apply standard accreditation tools, such as evaluating faculty interaction with students and the quality of faculty research in the case of WGU and similar providers. WGU is seeking simultaneous accreditation from the four regional accrediting agencies in whose areas it will operate.

These concerns with the appropriateness of the accreditation process to judge distance learning also applies to federal and state governmental processes that approve institutions for student aid and other forms of taxpayer support. These governmental efforts use many of the same traditional measures of performance found in the accreditation process and therefore could run into the same difficulties in judging the worthiness of virtual universities and other kinds of nontraditional providers.

• Western Governors University and other distance-learning efforts will heighten competition between traditional institutions and nontraditional providers, including the private sector.

The virtual university is just one of a number of ways information technology is transforming the delivery of higher education. An increasing number of corporations, dissatisfied with traditional higher education institutions, are establishing institutes and schools for their employees. Most of these corporate educational enterprises are investing heavily in various technologies as a way to provide more effectively the education and training their employees want and need. Some are or will be offering degrees. As a result, many of the same policy questions that apply to the virtual university regarding financial aid and accreditation will apply equally to corporate and other nontraditional providers of higher education.

For more information on this issue:

"Virtually an Institution," by Rhonda Martin Epper in *Trusteeship*, Special Issue 1996.

"The Near and Far of Distance Learning," by James Martin and James E. Samels in *Trusteeship*, March/April 1995.

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